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CHAPTER FOUR

PROPERTY VALUATION

4-1 SCOPE, ORGANIZATION AND MANAGEMENT

4-1.01 Purpose and Need for the Valuation Function

The Maine Constitution, Article 1 Section 21, states: "Private property shall not be taken for public uses without just compensation; nor unless the public exigencies require it." Additionally, the Fifth Amendment to the United States Constitution reads, in part, "No person shall...be deprived of...property without due process of law; nor shall private property be taken for public use without just compensation." The valuation process is the means by which MDOT assures compliance with the constitutional right to just compensation.

Valuation requirements are further codified in the **Maine Revised Statutes**, including, "When property is to be purchased or taken over and held for the State, the department shall first cause the property or interest in the property to be acquired, to be appraised by one or more appraisers." The same statute goes on to modify this requirement by stating, "The department may prescribe a procedure to waive the appraisal in cases involving the sale or donation of property. The department may prescribe procedures to waive the appraisal in cases in which the fair market value is estimated at \$5,000 or less and valuation can be established by another method. In any case in which the department and the owner do not reach an agreement about the value of property or the interest in property to be acquired, or if the owner requests, the department shall perform an appraisal" (23 **MRSA** 153-B, 2).

Where federal funds are used in any phase of a project, valuation and appraisal review activities must be in accordance with 49 **CFR** Part 24.

Just compensation is the measurement of damages resulting from a condemnation taking under the State's power of eminent domain. When the State acquires property by deed rather than condemnation, just compensation is still used as the yardstick for payment because of the overshadowing presumption that the State will acquire by condemnation what it cannot acquire by negotiation. There is no parity in bargaining positions between the State and the property owner, and the State is obligated in law to offer the full amount in negotiations as it expects to pay if the property were acquired by condemnation

Just compensation is the amount of loss for which a property owner is compensated when property is taken. It is intended that the amount of just compensation put the owner in as good a financial position as the owner would have been if the property had not been taken. While courts have refused to rule absolutely that just compensation is always equivalent to market value, just compensation is generally held to be market value.

When an acquisition of total property occurs (whole take), fair market value of the property acquired is just compensation. When a partial acquisition occurs, just compensation must

consider not only the market value of the property acquired, but also any severance damage (diminution in the market value of the remaining property that results from the taking and/or construction of the proposed improvement) and special benefits (specific benefits, but not general benefits, accruing to the property that remains after a partial taking.)

4-1.02 Special Benefits

Maine, law (*MRSA* 23.1542F), requires that special benefits be set off against severance damages but not against the value of the property acquired. Special benefits occur when the property remaining after a partial acquisition is enhanced by reason of the public improvement in a way that is not shared by other property affected by the project. An example would be an acquisition from a single ownership for an Interstate highway interchange. The project location is totally within one farm ownership. Three of four remainders are at interchange ramp quadrants and are converted from a highest and best use as farmland to motel and restaurant locations. The enhancement value would be set off against damages occurring to a fourth remainder. However, the property owner would be paid the full value of the land acquired for the interchange.

4-1.03 Role of the Property Valuation Function

MDOT carries out its obligation to pay just compensation by establishing the fair market value of every property to be acquired for transportation projects. The fair market value constitutes MDOT's estimate of just compensation and is the basis of offers and payments to owners pursuant to the exercise of its eminent domain authority. The valuation process that MDOT uses to establish fair market value fulfills both Constitutional and Statutory obligations. In its quality and thoroughness, MDOT's valuation process also demonstrates fair and equitable treatment for Maine citizens who are required to relinquish property for transportation projects that benefit the general public.

MDOT's valuation process consists of several formats and levels of documentation that correspond to the type of property being acquired and the complexity of the acquisition. The multi-format structure, along with the process of Appraisal review, insures that the fair market value offer to each property owner is fully supported by market information and analysis that is relevant to the property and the effect of the acquisition. The process also insures that property acquisition is expeditious and that the cost of administering the program is reasonable.

The following valuation formats are used to establish value:

1. Administrative Acquisition Procedure,
2. Short Format Appraisal, and
3. Before and After Appraisal.

The Administrative Acquisition Procedure is the subject of Chapter 3 of this *Manual*. The Before and After Appraisal and the Short Format Appraisal are discussed in Section 4-2.

Appraisal review is a critical component in the process of establishing fair market value. Every property appraisal is reviewed for factual accuracy, adequacy of documentation, and support for judgment by a qualified Review Appraiser. The Review Appraiser has responsibility for determining fair market value from all value information submitted. The Review Appraiser function is discussed in Section 4-5.

4-1.04 Scope of Property Valuation Services

As discussed above, the primary role of valuation in MDOT is to establish the fair market value of property that will be acquired for transportation projects in Maine. MDOT's property valuation function has the following additional important value-related roles and purposes:

1. Develop project right of way cost estimates.
2. Perform appraisal review services.
3. Advise on proposed administrative settlements.
4. Provide expert testimony before the State Claims Commission.
5. Assign, oversee and evaluate Consultant Appraisal services.
6. Value uneconomic remnants.
7. Advise on fair rents for MDOT property under management.
8. Determine market rents and certain relocation benefits.
9. Advise on valuation for the disposal of surplus property.

4-1.05 Appraisal Defined

The term "appraisal" is defined in Section 101(13) of the ***Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (The Uniform Act)*** as:

A written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

4-1.06 Organizational Placement

The valuation function operates under the Bureau of Project Development Division of MDOT. The Right of Way Policy Committee directs the function. Appraisal personnel (Appraisers and Review Appraisers) are assigned within MDOT's Programs of Urban and Arterial Highways, Urban and Federal Bridge, Regional, and Multi Modal. Personnel are further assigned to project teams within each program.

4-1.07 Controlling Laws and Regulations

Real property valuation is subject to the following Federal and State legal authorities:

1. U.S. Constitution, 5th and 14th Amendments;
2. Maine State Constitution, Article 1 Section 21;
3. 23 *MRSA* III.2 Section 153-B(2);
4. *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970* (as amended 1987), Title II;
5. 23 *CFR* 710; and
6. 49 *CFR* 24.102 through 105.

In addition to the above regulations, operation of the valuation function is subject to civil rights laws pertaining to all Departmental activities that involve employment, contracting for services and providing program services and benefits to the public.

4-1.08 Contracting for Valuation Services

MDOT valuation services are performed both by staff employees and by private consultant (fee) personnel. Fully qualified Staff Appraisers and Review Appraisers provide valuation and related services for right of way acquisition on the MDOT capital improvement program and also manage contracted valuation services. Consultant Appraisers are employed as required to meet workload needs of the transportation capital program or to provide specialized expertise that is not available within the Department.

Contracting right of way services is fully discussed in Chapter 9. The following is a summary of requirements that are pertinent to appraisal and other property valuation services:

4-1.08(a) Contracted Services

Services that may be contracted include:

1. Preparation of Before and After Appraisals;
2. Preparation of Short Format Appraisals;
3. Preparation of the administrative offer worksheet;
4. Appraisal review services;

5. Expert testimony;
6. Project right of way cost estimates;
7. Preparation of the project data package; and
8. Supplemental appraisal services relating to changes in project scope, parcel ownership, unanticipated property impacts or the need to update valuations.

4-1.08(b) Contracting Modes

The above services may be contracted in the following modes:

1. Individual parcel or project valuation assignment;
2. Contract for valuation services for a specific period of time on a call basis;
3. Combined with other functions such as titles, acquisition and relocation for a combined “turnkey” right of way service contract; or
4. Placed in an engineering design or design/build contract for a specific project.

4-1.08(c) Consultant Appraiser Qualifications

All Consultant Appraisers assigned to perform appraisals will be certified or licensed by the Maine Department of Professional and Financial Regulation – Office of Licensing and Registration as follows:

1. Certified General Appraiser – May appraise real property of all types.
2. Certified Residential Appraiser – May only appraise residential real estate or real property of one to four units or land related to that property without regard to transaction value or complexity when a net income capitalization analysis is not required.
3. Licensed Real Property Appraiser – May appraise only residential property of one to four units having a transaction value of less than \$1,000,000.

4-1.08(d) Fee Appraisal Agreement

Appraisal services on a project or parcel basis will be contracted by executing an Appraisal Agreement. The appraisal assignments will be listed by parcel number and owner on the Schedule of Appraisals, which will be referenced by and attached to the Appraisal Agreement.

4-1.08(e) Evaluation

On completion of an appraisal contract, the Appraiser's performance under contract will be evaluated by the Review Appraiser or the right of way operations Team Member. The MDOT Consultant Evaluation Form will be used for this purpose. A copy of the completed Form will be provided to the Consultant Appraiser and a copy will be routed to the Appraisal Register.

4-1.08(f) The Appraisal Register

The Appraisal Register is the list of Consultant Appraisers who have been pre-qualified to work for MDOT. Periodically, on a need basis, the Department will advertise for Appraisers to submit qualifications and an application for inclusion on the Register. Appraisers may apply for inclusion on the list at any time at their own initiative.

The Right of Way Policy Committee is responsible for maintaining the Appraisal Register. The Committee will review the list and new applications and then recommend additions or deletions to the Register. The Register will be updated at least once every 2 years. Applicants to the Appraisal Register will be advised in writing of the disposition of their applications. Persons who are deleted from the Register will also be advised in writing if a current mailing address is known. The Committee will make a record of its proceedings and decisions.

The Appraisal Register Committee will determine the required content of an application for the Register. The Appraisal Register Committee will also consult with the Office of Human Resources before advertising for Consultant Appraiser applicants to determine ways to increase applications from qualified Appraisers who are minorities.

4-1.09 Quality Assurance

Quality assurance in the valuation function is an inclusive process of evaluating performance and developing ways to continuously improve the accomplishment of program goals. Quality assurance is a responsibility that is shared by all persons and administrative levels involved in the valuation function. The Right of Way Policy Committee will establish goals and provide policy guidance for improving the level of quality in the valuation process. The Right of Way Support Managers will propose and coordinate quality assurance activities that will involve all valuation staff, which are scaled to the staff resources and current project workload. All professional staff will perform specific quality assurance tasks focusing on one or more of the factors listed below:

1. Effective coordination with Project Team Members responsible for other project development activities;
2. Timely assignment of Staff and Consultant Appraisers;
3. Assessment of appraisal-related training needs of staff personnel;

4. Identification of critical path tasks involving appraisals and valuation to eliminate barriers to timely completion of these activities;
5. Evaluation of Consultant Appraiser performance concerning quality of documentation, analysis of data, and timely delivery of appraisal products;
6. Effective performance evaluation and feedback of staff valuation personnel;
7. Development and understanding of valuation policy, practices and agency forms that support the effective and expeditious acquisition of right of way; and
8. Participation in evaluations (including 360-degree evaluations).

Quality assurance activities and tasks performed by professional staff will be reported in a manner determined by the Right of Way Policy Committee. The goal is to continuously improve the performance level of valuation activities (e.g., appraisals, appraisal review, estimates) in terms of cost efficiency, timeliness and quality of work products. MDOT's continuing refinement of quality assurance includes the development of performance standards and evaluation methods to establish goals and measure progress in meeting goals.

4-2 VALUATION FORMATS

4-2.01 General

MDOT's process of determining fair market value includes three levels of valuation that correspond to the complexity of the acquisition. The levels differ in their format and degree of documentation. However, all result in a determination of value that is supported and fairly arrived at and that meets Constitutional obligations and Maine Statutory standards for just compensation.

In addition to the instructions on valuation formats that are provided in this Section, the Appraiser will be familiar and comply with the guidance on special topics provided in Section 4-3. These provisions apply to valuations performed under all formats and are required by **Maine Revised Statutes** and/or Federal law or regulation.

4-2.02 Report Style and Presentation

All reports will be bound in the left margin, with a durable cover. The binding must allow easy removal of individual pages. The cover will be labeled to identify the project and the city or town where it is located. All pages will be numbered consecutively and will indicate the project number, parcel number and owner's name. The location of the property will be identified by street address, or other identifier that will enable the property to be located for field view.

More than one appraisal may be included in one volume. Where a large number of appraisals are submitted on one project, the reports will be submitted in two or more volumes. The Appraiser will submit one original volume and one duplicate volume, each containing original signature and photographs.

The Appraisal Report will be structured in three parts:

1. Part I – Preface;
2. Part II – Description, Analysis and Conclusion; and
3. Part III – Addenda.

Supplemental information that does not bear directly on the valuation may be included as an Appendix. Avoid bulky attachments. It is sufficient to refer to supporting Reports as being available on MDOT request.

4-2.03 The Administrative Acquisition Procedure Worksheet

The Administrative Acquisition Procedure is a limited-use, non-appraisal alternative valuation method. It is authorized under the appraisal waiver provisions of 49 **CFR** 24.102(c)(2) and 23 **MRSA** 153-B2.

The Administrative Acquisition Procedure includes both valuation and acquisition functions. The Procedure is fully addressed in Chapter 3.

4-2.04 Short Format Appraisal

The Short Format Appraisal is appropriate for acquisitions where there are no severance damages other than those easily supported by a cost to cure, and the following additional conditions are present:

1. The land acquired is vacant or includes only minor improvements.
2. The acquisition does not affect the highest and best use of the property.
3. The property to be acquired is a total acquisition.

For total acquisition parcels or acquisitions involving significant improvements all three approaches to value must be considered and if any approach to value is excluded its omission must be explained.

When there is adequate market data, the comparable sales approach to value may be sufficient for partial strip acquisitions that have no improvements or only minor improvements.

Content and analysis of the short format appraisal must be sufficient for the appraisal problem and the anticipated magnitude of damages.

4-2.05 Before and After Appraisal

The Before and After Appraisal is MDOT's detailed Appraisal format that is applicable in all acquisitions in which the Administrative Acquisition Procedure or Short Format Appraisal is not applicable. Generally, its use is reserved for complex acquisitions including partial takes where there are severance damages to the remainder area.

The Before and After Appraisal is performed by experienced Staff Appraisers or by Consultant Appraisers listed on the MDOT Appraisal Register who are certified or licensed for the type of assignment by the Maine Department of Professional and Financial Regulation – Office of Licensing and Registration.

The Appraiser will use all relevant approaches (e.g., market, cost, income) in determining the value of the part acquired and the value of the remainder. The Appraiser will explain not using an approach unless it is obviously not relevant from the nature of the Appraisal problem.

Appraisers are responsible for informing MDOT of special circumstances that will affect the prescribed format and for requesting advice as to how to proceed.

4-3 SPECIAL APPRAISAL INSTRUCTIONS

4-3.01 General

The topics addressed below provide information and instructions on requirements that either cut across all appraisal formats or have important specialized application. Several requirements derive from the fact that MDOT, having power of eminent domain, operates under State and Federal laws and regulations that do not apply to private real estate transactions. In addition, MDOT has certain procedural requirements to insure citizens that property acquisition activities are conducted in a fair and equitable manner. Appraisers who perform valuation services for MDOT must know and apply the rules and requirements so that MDOT fulfills its varied obligations.

4-3.02 The Appraiser's Certificate

A signed and dated "Certificate of Appraiser" will be included in each appraisal as the last page of the Report. It is the Appraiser's responsibility to be familiar with the content of the Certificate before accepting appraisal assignments. Any questions on interpretation or applicability should be resolved with the project Review Appraiser.

4-3.03 Tenant-Owned Improvements

Buildings, structures or improvements to real property that are owned by tenants will not be included in the appraised value of the property acquired. Instead, they will be listed individually on a separate Report and appraised as to their contributory value to the property. The Appraiser will also estimate each item's salvage value, which is the same as the value for removal from the site. The Department will make a separate acquisition offer to the tenant owner of the improvements if the landowner disclaims ownership interest in the items in writing.

If the Appraiser becomes aware of tenant-owned improvements during inspection of the property, or if ownership of certain items is disputed between the landowner and a tenant, this should be reported to the project Review Appraiser, who will instruct as to how these items should be treated in the appraisal. See Chapter 5 for policy on the purchase of, and payment for, tenant-owned improvements.

4-3.04 USPAP Jurisdictional Exception

Certified and licensed Appraisers in Maine and other States are required by certification statutes to comply with the Uniform Standards of Professional Appraisal Practice (USPAP), promulgated by the Appraisal Standards Board of The Appraisal Foundation. MDOT is required to comply with other regulations and laws that an appraiser may consider do not conform in certain details to requirements of the USPAP. The "Jurisdictional Exception" rule is the USPAP provision that retains applicability of the remainder of the Uniform Standards if any portion is determined to be contrary to law or public policy. This recognizes the preeminence of law and public policy and

allows a certified or licensed Appraiser to comply with MDOT Appraisal Standards (23 **CFR** 24 and 23 **MRSA** 153-B) without violating the USPAP. Note the provision in the Certificate of Appraiser (Form VL-7): “That this limited appraisal assignment called for less than what would otherwise be required by the specific guidelines of the Uniform Standards of Professional Appraisal Practice.”

The Appraisal Foundation requires an appraiser to identify the part or parts of the USPAP disregarded in applying the Jurisdictional Exception, and to state the authority justifying this action. Appraisers who have questions or concerns about MDOT Appraisal Standards as they relate to the USPAP should address them to the MDOT project Review Appraiser.

4-3.05 Compliance with Civil Rights and Nondiscrimination Requirements

MDOT directs the attention of Consultant Appraisers to the obligations stated in Appendix A of the Appraiser Agreement, titled “Notice to Fee Appraisers – Compliance with Title VI of the Civil Rights Act of 1964 and Subtitle A, Title 15, **Code of Federal Regulations**, Part 8 for Federal Aid Contracts.”

4-3.06 Additional Appraisals

The Right of Way Support Manager may authorize subsequent appraisals if necessary to support valuation of the property. Following are several, but not the only, circumstances in which a subsequent appraisal may be secured:

1. Unclear or disputed highest and best use of property,
2. High-value property (generally greater than \$150,000),
3. Significant passage of time from the date of appraisal to the date of acquisition, and
4. Unique property or complex acquisition.

4-3.07 Real vs. Personal Property Decisions

There may be items on the appraised property for which a question arises as to status as either real property or personal property. The MDOT project Review Appraiser should be consulted for specific instructions about these items.

4-3.08 Fencing

The Appraiser will describe the type, condition and quantity (linear feet) of any fencing in the acquisition area. There will normally be no valuation, or payment to the property owner, for fencing that the plans indicate will be replaced by MDOT. If fencing will not be replaced by MDOT, the Appraiser will estimate its contributory value to the property and separately state the

salvage value. If there are any unusual circumstances, the Appraiser will consult the project Review Appraiser.

4-3.09 Timber, Line Trees on Easement Highway

The Appraiser will estimate the contributory value of the stumpage in the old right of way of an easement highway. The value will be listed in the Summary of Damages in each appraisal. Any line trees on an easement highway will be considered as being in the taking area. This includes line trees on the old right of way as well as on the new right of way line.

4-3.10 Recording Critical Dates

The Appraiser will record the following dates and place it in the appraisal on the final estimate of damages page:

1. Date the owner was contacted regarding the opportunity to accompany the Appraiser in inspecting the property pursuant to 23 **MSRA** 153B(2) and 49 **CFR** 102(c)(2);
2. Date of inspection of the property;
3. Date the value applies; and
4. Date the appraisal is signed by the Appraiser.

4-3.11 Cost to Cure Items

Minor physical damage to property may be valued on a cost to cure if the value on this basis is less than the diminution in value if such cure were not made. Items that may be considered for cost to cure include reconnected utilities, fence relocation or replacement, walkways, steps, handicap ramps, septic systems, drives, etc.

The Appraiser will state the basis for any cost to cure estimate and the source of information used. This may be consultation with a (named) contractor, reference to the cost of recent similar work, advertised installed prices or application of unit costs confirmed locally. The appraiser's estimate will be what an owner would incur by hiring a qualified local contractor to perform the entire job, including any incidental expenses.

4-3.12 Wells

Wells that are the primary water supply to the property and are within the acquisition area or affected by the construction are eligible for replacement through the Department's Well Claims program that is administered by the MDOT Environmental Office. Secondary or unused water supplies are appraised as to their contributory value to the property.

4-3.13 Signs

Signs within the acquisition area are considered to be a relocation item and not addressed in the appraisal. Encroachment signs are referred to the Bureau of Maintenance and Operations for removal.

4-3.14 Items Not Compensable under Maine Law

The following are not compensable appraisal items under State law. However, several items are addressed in the relocation program. The Appraiser will not include any listed items as elements of damage on Appraisal Reports submitted to MDOT.

1. Removal cost of personal property;
2. Breakage of personal property;
3. Cost of replacement premises exceeding the value of old premises;
4. Business or income opportunity loss;
5. Business interruption;
6. Inferiority of new location;
7. Non-availability of acceptable replacement location;
8. Loss of goodwill;
9. Loss of profitable contracts;
10. Damages from frustration of contracts;
11. Loss of privacy;
12. Owner or tenant inconvenience;
13. Speculative damages (includes all above);
14. Decrease in business value on premises;
15. Value to taker;
16. Value to owner, as opposed to market value;

17. Damages due to the exercise of police power, such as restriction of traffic due to detours during construction, or installation of traffic control devices as part of the highway project; and
18. Circuity of travel (a business does not have a proprietary interest in the traffic passing its site).

If the Appraiser has any questions on any of the above items, they should contact the project Review Appraiser for clarification.

4-3.15 Opportunity for Owner to Accompany Appraiser

The Appraiser will contact the property owner and offer an opportunity for the owner or a representative to accompany the Appraiser during an inspection of the property pursuant to 23 **MSRA** 153B(2) and 49 **CFR** 102(c)(2). The Appraiser will record the date and the manner of the owner contact and any response that was received.

If the owner cannot be contacted for any reason, or the owner is not responsive, the Appraiser will record efforts to contact and advise the MDOT project Review Appraiser.

4-3.16 Information Provided to Appraiser

On assignment, the Appraiser will be provided with the Project Data Book and the following items to the extent applicable:

1. Signed copy of the Appraisal Agreement and the Schedule of Appraisal (Contract Appraiser);
2. Right of way plan sheets;
3. Construction plan sheets;
4. Five-year Conveyance Report;
5. Property Owner Report;
6. Preliminary Title Report, if available;
7. Aerial photos, if available;
8. Timber cruise, if available; and
9. Specialty Reports, if secured by MDOT.

4-3.17 Appraisal Corrections or Additions

Appraisal contracts are not completed until the appraisal(s) are accepted by the MDOT project Review Appraiser. Corrections or additions to appraisals will be submitted promptly as replacement or addendum pages that have been dated and initialed by the Appraiser.

Appraisal changes, valuation updates or additions caused by a change in the scope or character of work will be submitted and paid as agreed on between MDOT and the Appraiser.

4-3.18 Conflict of Interest – Procurement

No employee, officer or agent of MDOT may participate in the selection, award or administration of any contract for the Department if that person has a financial or other interest in the firm selected for the award.

Employees, officers or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to these agreements.

Any violation of the above is subject to the penalties, sanctions or other disciplinary actions in accordance with State law and regulations.

4-3.19 Specialty Appraisal Reports

Specialty Appraisals are necessary if the acquired property contains items that contribute to the value of the real estate that are not normally found in real estate transactions. This may include installed machinery and equipment, fixtures determined to be real property, or special-purpose properties built to a specific function or use. If the Specialty Appraisal has been performed by an MDOT Staff Appraiser, or by a Consultant Appraiser hired by MDOT, it will be reviewed by MDOT before it is transmitted to the real estate Appraiser. The real estate Appraiser will be instructed to use the Specialty Report to determine the value the specialty items contribute to the value of the whole property. It is not acceptable to simply add the Specialty Report value to the value of the real estate without the specialty items.

4-3.20 Confidentiality of Records

All Appraisal Reports and related documents and information are confidential documents and information will not be disclosed to anyone other than right of way officials of MDOT or the Federal Highway Administration until so authorized by those officials or by operation of law.

23 **MRSA** Section 63 provides that records and correspondence relating to appraisals and other right of way functions “shall be open for public inspection after 9 months following the completion date of the project according to the record of the Department, not including those claims which have been appealed to the Superior Court, and said records to be open for public

inspection following award of the court.” Consult the MDOT Office of Legal Services for interpretation of this provision.

4-4 PROJECT DATA BOOK

4-4.01 Purpose of the Project Data Book

The Project Data Book is a cumulative collection of factual data that have been gathered in support of the preparation of project right of way cost estimates, Administrative Acquisition Worksheets and appraisals for the project. The Project Data Book consolidates general data for a related group of individual parcel Reports. It avoids costly duplicative efforts to compile the information that serves a common need of Appraisers, Review Appraisers and other right of way personnel assigned to a project. On larger projects, the Project Data Book promotes project consistency and efficiency.

The Project Data Book compiles information that is used on appraisal comparable data sheets, neighborhood and regional descriptions, general exhibits, right of way cost studies and information relating to the area or region trends (time, utility, location, etc.). The information is limited to factual data. Evaluation and analysis is performed in the Appraisal Reports and other documents that are served by the project data that are compiled in the Data Book.

4-4.02 Responsibility for Compiling the Project Data Book

The Data Book is normally prepared by staff personnel who are trained and experienced in the appraisal process. It is produced under oversight of a Review Appraiser or the Right of Way Support Manager. A Contract Appraiser may also be employed.

4-4.03 Content of the Project Data Book

The content of the Project Data Book is intended to reflect the scope and complexity of the project it represents. The level of detail and corresponding effort necessary to complete the Book should vary with the number of parcels on the project, the range of uses, the type of acquisitions and the extent of recent real estate sales market activity. The following summary of content is intended to represent the necessary level of detail and effort for a complex project of significant scope. The content of non-complex projects may be modified appropriately to suit the intended need for these data in relation to the actual project under development.

The intended scope and content of the Project Data Book will be understood and agreed on by the MDOT staff who will develop the Book before data collection begins. If the work is contracted to a private Appraiser, the scope and content will be mutually agreed on by the Consultant Appraiser and the Contract Administrator and will be reflected in the Consultant agreement document.

Data collection for the Project Data Book will continue through submission of the last appraisal on the project. This is necessary so that late project appraisals will have the same benefit of current market data as appraisals that are prepared early in the project. Revisions and updates to the Data Book will be dated and signed by the person entering the data.

The Project Data Book will contain the following elements:

1. Title page;
2. Table of contents;
3. Qualifications of preparer(s);
4. Assumptions and limiting conditions;
5. References;
6. Description of project, maps, aerial photographs, etc.;
7. Area and neighborhood analysis;
8. Market data; and
9. Supporting documentation and exhibits.

Each of the above elements is described fully in the following Sections.

4-4.03(a) Title Page

This will include:

1. Project location by municipality,
2. Project number and PIN,
3. MDOT identified as the client,
4. Effective date of Project Data Book, and
5. Name(s) and affiliation of person(s) preparing the book.

4-4.03(b) Table of Contents

List the major parts of the Report and subheadings with page references.

4-4.03(c) Qualifications of Preparer(s)

Provide the qualifications of all persons providing significant contribution in preparing the Project Data Book.

4-4.03(d) Assumptions and Limiting Conditions

Assume that the project will be constructed in accordance with the current design plan, unless there is information to the contrary. This must be cited by source and in specific detail. State any assumptions applicable to the research and assembly of the Project Data Book.

4-4.03(e) References

Provide names and titles of individuals who have supplied significant information for the Data Book, (e.g., municipal officials, contractors, real estate professionals).

4-4.03(f) Description of the Project, Maps, Aerial Photographs, etc.

Describe, concisely, the proposed transportation project improvement. Describe resulting changes in access, frontage, elevation, drainage, utilities and proximity. Include a project location map relating the project location to the municipality or area. All maps will include a north arrow and identification of the project and the municipality. All maps and plans may be bound as facing pages opposite the description, tabulation or discussion topic to which they relate.

4-4.03(g) Area and Neighborhood Analysis

Present a narrative discussion and analysis of the following items:

1. Define and delineate the real estate market area.
2. Evaluate and analyze the current demand and supply relationships in the local real estate market and describe factors that influence the market.
3. Describe the existing supply of property for the specific uses within the defined market area that are affected by the project.
4. Identify uses, sites and parcels of historic significance and describe the effect on the project of these places.
5. Discuss current patterns of land use and trends in the area first and the neighborhood second. This includes new construction planned or under way, vacant sites as potential competition for the subject(s), adequacy and availability of utilities, access, impaired sites nearby, etc.
6. Discuss current economic factors affecting the area and neighborhood, including population, employment, income, interest rates, rents, zoning, and other regulations. Discuss the probability of future changes for these factors, as relevant.
7. Describe the neighborhood before and after completion of the proposed transportation project.
8. Forecast how anticipated changes in the inventory of real property resulting from the project will affect the subject neighborhood.

9. Attach and provide a brief evaluation of any published economic, damage, cost or other general studies that will be relevant for use in any property valuations.

4-4.03(h) Market Data

The following applies:

1. Reporting. State the extent of the process of collecting, confirming and reporting data. This statement of scope should be brief. If the property is improved and land-only valuations are required, include a statement limiting the scope. If Before and After Appraisals are anticipated, the data collection process must include sufficient comparable sales of the after condition of property as well as comparable sales of the before property.
2. Method. The market data (sales comparison) approach is the most easily understood method for the presentation of market value and just compensation. Greater reliance will often be placed on this than on other approaches. The market approach only is required for most parcels. It is therefore imperative that sufficient relevant market data are included for analysis in order to provide a sound basis for conclusions made from the market approach.

Current accurate comparable sales information will be provided in a quantity that is sufficient to support the value conclusions as representative of the local market. Data must provide a sound basis for valuation of both the before and the after condition of each parcel. Three comparable sales are generally considered the minimum acceptable support for simple valuations; more are recommended when available, particularly for complex appraisal problems.

3. Neighborhood Sales. The market data survey must include an analysis of all recent sales of similar properties in the subject neighborhood. Discuss and evaluate the existing supply of available similar properties (the competition). If relevant, discuss the sales history of comparables as to time on the market, changes in asking price, resale of the same property, and sales agreements that fell through.
4. Value Indicators. The following indicators of value may be included in the Project Data Book for the purpose of illustrating a trend or extreme, but may not be used as the only basis for value:
 - a. Unconfirmed sales,
 - b. Listings,
 - c. Earnest money agreements,
 - d. Offers to purchase,
 - e. Lease or purchase options,
 - f. Sales to or from agencies having power of eminent domain,

- g. Estate sales between relatives,
- h. Trades and/or exchanges,
- i. Sales with generous financing terms,
- j. Foreclosure sales,
- k. Sales made under duress,
- l. Bankruptcy estate sales, and
- m. Auctions.

It is not acceptable to deviate from the foregoing except in rare cases where no other data exists and the Appraiser submits the documents, verification and analysis to the project Review Appraiser for approval for use in an Appraisal Report. Sufficient market data are not always available to evaluate all types of properties subject to acquisition. When market data are limited, or comparability is weak, the Appraiser must demonstrate a concerted effort to obtain other sources or types of supporting data.

5. Inspection of Sales. It is essential to inspect all sales included in the data package. If a timely field inspection is not possible due to weather or other factors, additional documentation of familiarity with the sales will be provided, such as dates of earlier inspections. The sale must be inspected at the earliest opportunity. A waiver for inspection of sales will only be granted under extreme and unusual circumstances. The waiver request will be in writing and will be fully explained and supported.
6. Confirmation of Sale. The Data Book preparer will inspect and personally confirm all market data used for Appraisal Reports. Market sales information is considered reliable when the facts are verified by personal contact with the buyer or seller, or in some cases, agents to the transaction. Not every sale can be confirmed by direct contact with the buyer or seller. In such instances, the Appraiser will verify the transaction facts with the agent or attorney representing the parties or with other source of reliable information. The sale conditions and the source of verification will be identified on the comparable data sheet.
7. Date of Sale. The date of the meeting of the minds, or earnest money agreement date, should be used as the date of sale if possible. Otherwise, the date the deed of transfer was signed, not the date of recording, should be considered the date of sale.
8. Use of Data Gathered by Others. Market data on file with MDOT may be shared on request, with no obligation by MDOT as to its accuracy or relevance. Any staff or contract valuation professional who receives market data from MDOT will independently verify, confirm, and inspect the data.
9. Comparable Market Data Sheets. A comparable market data sheet (sale sheet) must be included for every sale or value indicator. The preparer is not required to use the MDOT Form VL-3, but all pertinent data shown on the Form must be

included in each market data submittal. Descriptions must be sufficiently clear to locate each sale in the field.

Estimate the land/improvement allocation for each improved property. The basis for the allocation, including supporting data, reasoning and correlation, must be provided. A statement that the purchaser or seller allocated the values, or that it came from another appraisal, is not acceptable without further support.

10. Photographs. Attach photos of each comparable property to provide the user with a clear understanding of the property. This requirement applies to both occupied and vacant property. At a minimum, each photo will be identified with the following information:

All Photos

Project Number:
Town:
Location:
Looking:
By:
Date:

Sales

Sale No:
Grantor:
Grantee:

Leases

Lease No.:
Lessor:
Lessee:

11. Sales Summary Chart. Attach a sales summary chart or a recapitulation of the sales data.
12. Sales Map. Include a sale map that shows the location of each sale referenced by number, in relation to the location of the subject property or the project location. The map must have a north arrow and must identify the properties and their locations sufficiently that they can be found in the field.

4-4.03(i) Supporting Documentation and Exhibits

Attach any documentation or supporting data that may be pertinent to the Report, including:

1. Title reports;
2. Specialty reports;
3. Special instructions from MDOT;
4. Legal opinions or references;
5. Cost to cure estimates and calculations, including cost data relied on to establish the contributory value of improvements acquired (improvements must be valued as they contribute to the overall property value; depreciated replacement cost may be an accepted measure of value if it is demonstrated that the market responds in that

- manner; the standard of valuation is the fair market value of the entire property; totaling the separate money values of a property's parts is not acceptable);
6. Reproduction cost of new buildings and improvements;
 7. Building inspection reports;
 8. Rental and cost data survey;
 9. Zoning ordinances and other land use regulations and maps;
 10. Copies of zoning changes, applications, maps, meeting minutes and variances to demonstrate the reasonableness and probability of rezoning or variance, if zoning issues are expected to influence value;
 11. Comprehensive planning documents and maps;
 12. Subdivision covenants and restrictions;
 13. Environmental or regulatory restrictions;
 14. Leases;
 15. Economic studies;
 16. Environmental studies or analyses performed (discuss any hazardous materials on the project properties or adjacent properties, recent cleanup of the project or adjacent properties or major cleanup; include information on pending actions that may influence the environmental standing of subject parcels);
 17. Current dated right of way plans;
 18. Tax maps;
 19. Flood plain maps;
 20. Wetland maps;
 21. Utilities maps;
 22. Soils survey maps, soil descriptions and uses, particularly for agricultural use;
 23. Design reports and project descriptions (design plans should be retimed until superseded or the project is closed out); and
 24. Assessed values, real estate taxes, trends and equalization adjustment factors.

4-5 APPRAISAL REVIEW

4-5.01 General

The appraisal review function is an integral part of the valuation process. A determination of fair market value by the Appraiser serves as the basis of the Department's offer of just compensation. Therefore, the appraisal(s) of a property must be reviewed and fair market determination approved before the initiation of negotiations to acquire property or the acquisition by eminent domain.

Beyond the determination of fair market value, the Review Appraiser manages the appraisal process and performs the primary quality assurance role. The Review Appraiser conveys and interprets appraisal policy, provides information to management on the status of appraisal assignments, evaluates appraisal assignment performance, secures appraisal corrections, and approves completion for payment of appraisals performed under contract.

The Review Appraiser must remain independent and not be influenced to approve a directed value determination or to accept appraisals that are inappropriate or flawed. The Review Appraiser should be flexible enough to help advance the programmatic goals of the Department while not sacrificing appraisal integrity.

4-5.02 Review Appraiser Qualifications

The Review Appraiser performs an oversight as well as an operational role in the valuation process. The Review Appraiser will be fully qualified by training and experience to perform the same type and level of appraisals on which reviews are performed. Additionally, the Review Appraiser must be thoroughly familiar with MDOT right of way policies as well as with Appraisal Standards, including the following:

1. Uniform Standard of Professional Appraisal Practice,
2. Uniform Appraisal Standards for Federal Land Acquisition,
3. 23 **MSRA** 153 through 157,
4. 49 **CFR** 24.103, and
5. MDOT *Right of Way Manual*.

The Review Appraiser is normally a staff employee of the Department who has extensive experience in the appraisal of property for right of way and who has also performed varied assignments in other right of way functions such as acquisition and property management.

The Department may retain the services of Consultant Review Appraisers to meet anticipated workload demands. The Consultant contract may pertain to a project, an area and/or a period of time. The Consultant Review Appraiser will have the same parcel responsibilities and authority as corresponding Staff Reviewers. The Right of Way Policy Committee will be responsible for the qualification and selection of Consultant Review Appraisers.

4-5.03 Appraisal Review Responsibilities**4-5.03(a) Scope of Responsibilities**

On appraisals or other valuation documents reviewed for each parcel, the Review Appraiser is responsible for the following actions and determinations:

1. Insure that all appraisals submitted to MDOT contain the necessary documentation and are factually accurate.
2. Insure that the Appraiser's value conclusion contains only value and damage elements that are compensable under eminent domain in Maine.
3. Maintain adequate records of the status of appraisals on a project basis.
4. Secure appraisal corrections or addendums from Appraisers to resolve omissions or errors noted in review.
5. Determine the fair market value of the part acquired and damages to the remainder.
6. Determine the salvage value for improvements or structures that are anticipated to be retained by the owner or sold for removal.
7. Determine the contributory value for any tenant-owned improvements.
8. Determine the cost to cure of minor elements of physical damage.
9. Review Specialty Appraisals as to the way in which the value of the specialty items contributes to the value of the whole property.
10. Prepare parcel related documents, including:
 - a. Form VL-14, Review Appraiser's Value Determination,
 - b. Form VL-15, Statement of Determined Damages (1),
 - c. Form VL16, Statement of Determined Damages (2), and
 - d. Property Tax Pro-ration (Form VL-13).
11. Prepare project related documents:
 - a. Tabulation of Appraisals,
 - b. Cost Estimate,
 - c. Incidental, and
 - d. Appraisal Summary Memo.

12. Insure appraisal quality.

The above responsibilities are carried out through the activities described in the following sections.

4-5.03(b) Desk Review for Documentation and Accuracy

The Review Appraiser, or other qualified person under supervision of the Review Appraiser, will make a documentation and accuracy check of the appraisal. This will be performed as soon as practical after receipt of the appraisal but before making a determination of value. The purpose of the desk review is to insure that the appraisal contains all required elements under MDOT and USPAP standards and that factual information and mathematical calculations are correct. The desk review will not evaluate matters of valuation judgment. The Reviewer will promptly inform the Appraiser of any errors or omissions revealed by the desk review.

4-5.03(c) Property Inspection

If appropriate, the Review Appraiser will make an on-site review of the project and property appraised. The inspection should be performed as recent as is feasible to the time the property is appraised. Earlier inspection, such as just prior to appraisal assignment, will suffice if there are no indications of significant physical change in the property or the market influences in the area of the project.

On non-complex projects in remote locations, Appraisal Reviews may be accomplished without a property inspection if the Review Appraiser is familiar with the area from previous projects. The Reviewer will rely on previous knowledge, the information contained in each appraisal, and other reliable sources.

4-5.03(d) Appraisal Corrections, Modifications and Revisions

The Review Appraiser will notify the Appraiser in writing of any needed appraisal corrections, modifications or revisions and set a reasonable date for expected response. If the Appraiser responds with revised appraisal pages, the Reviewer will initial and date them, indicating receipt and acceptance, and place them in the Appraisal Report. Superseded pages will be removed from the appraisal, marked void, and placed in the permanent correspondence file.

Minor changes or clarifications that do not affect the value may be made in ink on the Appraisal Report and then initialed and dated by the Review Appraiser.

4-5.03(e) Avoiding Value Divergences

Before the valuation process begins and when using more than one Appraiser to value the same property(s), there are several preventative measures that can be taken in order to avoid or minimize divergences in value:

1. Establish the appraisal problem before the selection of the Appraisers.
2. Assign the Review Appraiser who will review the appraisals before the selection of the Appraisers in order to participate in the determination of the appraisal problem and the selection of the Appraisers.
3. Provide each Appraiser with the same parcel information to insure that it is consistent and accurate.
4. Conduct a meeting between the Review Appraiser and each Appraiser to discuss the appraisal assignment without discussing values.

4-5.03(f) Resolving Value Divergences

The Review Appraiser will reconcile significantly divergent value conclusions among appraisals of the same property in the manner discussed below.

Widely divergent value conclusions usually arise from 1 or more of the following causes:

1. Difference in judgment among appraisers such as to highest and best use of the property, damages or special benefits to the remainder, adjustments to comparable sales, personal vs. real property, comparables used, selection of capitalization rate, depreciation amounts, etc.; and/or
2. Technical divergences relating to the size of property, age of the improvements, zoning, selling prices of comparables, inadequate data search, leases, non-compensable items, encumbrances, date of valuation, math errors, incorrect or omission of relevant data, etc.

The Review Appraiser is responsible to clearly identify the basis for the difference in appraisal values, and to explain, reconcile or resolve the differences in establishing fair market value. This may necessitate contacting one or all Appraisers to discuss critical elements. The Review Appraiser should not challenge the Appraiser's judgment. The objective is to explore and fully understand the Appraiser's reasoning, and/or to determine whether the Appraiser(s) have considered specific elements that the Review Appraiser considers relevant to value, and that would explain the difference in Appraisers' judgment. The Review Appraiser may ask the Appraiser(s) to submit supplemental information or analysis that will better explain appraisal the appraisal value conclusion.

If the value differential among appraisals is due to factual error, omissions of fact or analysis, or flawed reasoning the Review Appraiser will request the Appraiser to submit correction or reanalysis as appropriate. Flawed reasoning means defect in logic or failure to provide complete reasoning, not merely a difference in judgment between the Appraiser and Review Appraiser.

Differences in Appraiser judgment as to highest and best use may occur in locations that are undergoing transition in land use due to population growth or economic activity. The Review Appraiser is the final authority in determining highest and best use after fully understanding the basis for contrasting appraisal judgments. In making the decision the Review Appraiser should consider the current or currently zoned use as being the most likely highest and best use unless there is a specific compelling reason for a different use (e.g., the probability of rezoning the parcel).

After examining the appraisals and conferring with Appraisers as appropriate, the Review Appraiser may decide that differing value conclusions are not reconcilable and they reflect a reasonable range of expert judgment. It is the Review Appraiser's responsibility to determine which appraisal best represents the most reliable estimate of just compensation for the Department's proposed acquisition. The Review Appraiser may determine fair market value within the range of the appraisals based on experience and explained judgment. More than one well-supported value conclusion could be the basis for an offer in excess of the approved appraisal when that appraisal is the lower opinion of value. The fair market value may reflect factors such as consistency with unit values established for other properties acquired, or knowledge of recent settlements that may have established a pattern in unit value for the type of land acquired. The Review Appraiser will explain the basis for the fair market value conclusion by writing a memo to the project correspondence file and the Right of Way Support Manager stating the differences between the appraisals and why one was approved over the other(s).

The Review Appraiser may recommend that the Department obtain an additional appraisal to resolve the divergence between two or more appraisals. This is done with the hope the new appraisal will support the opinion of value of one appraisal over the other(s). There is always the possibility that the new appraisal will differ significantly from the previous ones and result in another divergence. At this point the Review Appraiser will decide which appraisal best represents an estimate of just compensation or will form a Reviewer's independent determination of value.

4-5.03(g) Determination of Value

The determination of fair market value is the primary mission of the Review Appraiser. The fair market value is established only after completion of the preliminary steps above. The determination will be based on the total body of value information available to the Review Appraiser and not exclusively on the Appraisal Report. If the Review Appraiser is led to a value conclusion that significantly differs from the appraisal value, an independent determination will be performed as provided in Section 4-5.04.

Once the appraisal has been reviewed and approved, the Review Appraiser will record the determined fair market value on the Tabulation of Appraisals and the Appraisal Summary Memo and will calculate the tax pro-rata for parcels with fee acquisitions. The Review Appraiser will sign and date the determination of value under the parcel certification statements on Form VL-14, complete Forms VL-15 or VL-16, whichever is appropriate, and complete the Incidental Form and the Cost Estimate Sheet. Place copies of all forms in the project correspondence file. The original VL-14, VL-15 or VL-16, and Incidental and Cost Estimate Forms are transmitted to the Condemnation Unit of Program Services to be used as the basis for the generation of the offer letters and offer-assent forms which are provided to the Project Negotiator in order to contact property owners and present offers.

4-5.03(h) Quality Assurance – Appraisal Review

The Review Appraiser's quality assurance role is served in the ongoing conduct of responsibilities. The Review Appraiser is the main contact with the Appraiser and is the available authority on Appraisal Standards as they apply to properties being appraised. The Review Appraiser has the following quality-related responsibilities in addition to determining the fair market value of property to be acquired for right of way:

1. Maintain a good professional relationship with Staff and Contract Appraisers.
2. Respond in a timely manner to questions raised by Appraisers about their assignments.
3. Maintain adequate records of appraisal assignments and due dates to identify potential delays sufficiently in advance to take corrective measures.
4. Review appraisals and related documents to establish fair market value.
5. Provide constructive and timely advice to Appraisers with the purpose of elevating the quality of submitted appraisals to meet MDOT standards.
6. Advise Appraisers and MDOT management on the application of appraisal methods and standards to unique or complex appraisal problems.
7. Provide information to MDOT management as requested on the status of appraisals on active projects.
8. Keep records of the status of appraisals returned for corrections or modifications, and follow up as necessary to secure revisions promptly.
9. Evaluate the performance of Appraisers under contract on completion of assignment.

4-5.04 Review Appraisers Independent Determination of Value

The Review Appraiser is authorized to form an independent determination of value that differs from the Appraiser's opinion of value. Before making an independent determination, the Review Appraiser will confer with the Appraiser in an effort to reconcile views. In doing this, the Review Appraiser will respect the Appraiser's professional responsibility to advance a value conclusion arrived at by a valid application of the appraisal process.

A Review Appraiser's determination of value will be based on an evaluation of value information by others as further supported by market information and analysis performed independently by the Review Appraiser.

The Review Appraiser will recommend the independent determination on a memo stating the basis and documentation for the determination. A copy of the memo will be placed in both the original and duplicate appraisal along with an accompanying note placed on the Estimate and Summary of Damages page that states: "*See Reviewer's Determination (Date), \$_____*". A copy of the memo will be placed in the project correspondence file and another copy will be sent to the Right of Way Support Manager who, if the value determination is acceptable, will approve it as an acquisition offer.

4-6 SPECIAL VALUATION SERVICES

4-6.01 General

Valuation services in MDOT include a variety of tasks beyond establishing fair market value for property that is purchased for right of way. The Appraiser and Review Appraiser staff and contract personnel are called on to support certain activities in project development, property management and relocation. This Section discusses special valuation responsibilities and the coordination and communications necessary to perform these tasks effectively.

4-6.02 Project Cost Estimates

Cost estimates are secured for all phases of project development at various stages (e.g., 6-Year Plan, BTIP, Initial Team Meeting, PDR, Final Estimate). The estimate for right of way may include the cost of titles, mapping, appraisals, right of way acquisition, relocation and demolition. Staff or Contract Appraisers and Review Appraisers are tasked to provide project estimates as required for project development.

4-6.03 Valuation Services in Support of Property Management

Valuation services are requested by the Property Manager through the Right of Way Support Manager and are provided to support property management activities as follows:

1. Prepare value estimates of surplus property that is offered for sale by MDOT.
2. Prepare value estimates of uneconomic remnants.
3. Determine fair market rent for temporary occupancy pending construction.
4. Determine fair market rent for long-term rental of surplus property or air rights.
5. Prepare value access control modifications to support community development or private development.
6. Determine salvage value of acquired buildings and improvements.

4-6.04 Valuation Services in Support of Relocation

Valuation services are requested by the Relocation Manager through the Right of Way Support Manager and are provided to support relocation program activities as follows:

1. Determine rent for continued occupancy of tenants and for owners of MDOT-acquired property, not to exceed short-term market rent.

2. Determine economic rent of owner-occupied dwellings purchased by MDOT for the determination of owner to tenant replacement housing benefits.
3. Estimate the cost of replacement housing alternatives for displacees requiring housing provided by MDOT under provisions of Last Resort Housing.